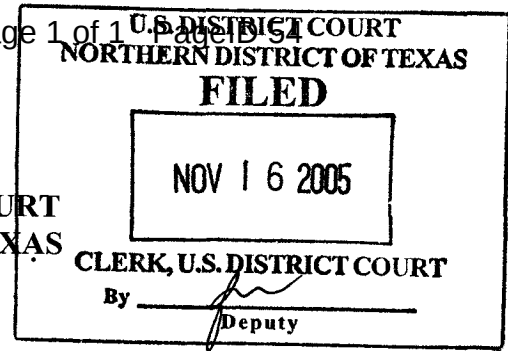


ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



MICHAEL ANDREW BAIN )

V. )

3-05-CV-909-B

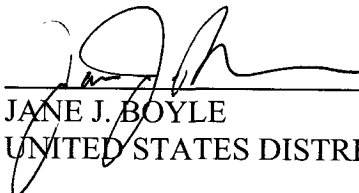
DOUGLAS DRETKE, Director, )  
Texas Department of Criminal Justice )  
Correctional Institutions Division )

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

United States Magistrate Judge William F. Sanderson, Jr., made findings, conclusions and a recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions and recommendation for plain error. Finding none, the Court accepts the Findings, Conclusions and Recommendation of the United States Magistrate Judge.

IT IS, THEREFORE, ORDERED that the Court finds that Michael Andrew Bain is entitled to an evidentiary hearing on his claim that his trial attorney failed to render effective assistance of counsel in failing to investigate his physical and mental health history, in failing to obtain an expert to assess such records and in failing to present physical and mental health evidence in mitigation of punishment, and the case is referred back to Magistrate Judge Sanderson directing him to hold an evidentiary hearing

SO ORDERED this 16<sup>th</sup> day of Nov., 2005.

  
\_\_\_\_\_  
JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE